

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4313 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

-----  
R H PANDYA EDUCATION TRUST

Versus

NAVNITLAL DHANJIBHAI PARIKH  
-----

Appearance:

Petitioner present in-person

MR CHETAN PANDYA for Respondent No. 2  
-----

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/12/2000

ORAL JUDGEMENT

#. Heard the petitioner in-person and Mr.Chetan Pandya for respondent No.2.

#. This practice of the litigants to stall the final adjudication in the application before the Gujarat Primary Education Tribunal, deserves to be deprecated. The application filed by respondent No.2 before the

Tribunal questioning the order of the petitioner herein under which her services were terminated is pending. The Tribunal has protected the respondent No.2 by grant of interim relief. The petitioner, the respondent therein, raised a preliminary objection that the Tribunal has no jurisdiction to entertain the application as the school is unrecognized school. Under the impugned order, this preliminary objection raised by petitioner herein came to be rejected and against that order, this petition is filed. This court has protected the petitioner by grant of interim relief, meaning thereby the respondent No.2 is not in service. In the matter of termination from the services, ordinarily, no interim reliefs are to be granted, otherwise, it will result in granting relief without adjudicating any dispute. This is only one aspect, second is, in case such relief is granted, it will result in granting final relief. In case where ultimately the applicant fails in the application, the respondent-management cannot be compensated for these salaries paid to the applicant, but converse is not true. In case interim relief is not granted and ultimately the applicant succeeds in the application, the Tribunal has all the powers to compensate for the loss he or she suffered. Be that as it may, as this court has protected the petitioner, I am satisfied that this interim relief has to continue till the matter is decided finally by the Tribunal.

#. In the result, this special civil application is disposed of in the terms that the interim relief granted by this court shall continue till the applications filed by respondent No.2 before the Tribunal are finally decided. The Tribunal is directed to decide these applications, the reference of which has been made in the petition, within a period of two months from the date of receipt of Writ of this order. It is open to the petitioner to challenge the order of the Tribunal impugned in the special civil application if ultimately final decision in the applications goes adverse to it while challenging that decision. It is made clear that it is not open to the petitioner to reagitate the question of jurisdiction of the Tribunal before the Tribunal and it stands concluded under the impugned order. Rule stands disposed of in aforesaid terms with no order as to costs.

.....

(sunil)